IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 534 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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STATE OF GUJARAT

Versus

SURESHCHANDRA RAMESHBHAI SHAH

Appearance:

1. Criminal Revision Application No. 534 of 2000

MR DESAI, APP, for Petitioner No. 1

MR DK MODI for Respondent No. 1-6

MR MD MODI for Respondent No. 1-6

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 05/09/2002

ORAL JUDGEMENT

1. Rule. Learned Advocate Mr. Modi waives service of notice of Rule on behalf of the respondents. With the consent of learned Advocates, the matter is taken up today for final hearing.

2. By this revision application, the State of Gujarat challenges an order passed by learned Chief Judicial Magistrate, Palanpur, below Ex.1 and 17 in Criminal Case No.906 of 1999, on the 11th August, 2000, acquitting the accused persons by giving them benefit of doubt for the offences charged against them under the Prevention of Food Adulteration Act.

3. A complaint was lodged by the Food Inspector, Palanpur, against the accused persons on basis of samples taken by him in respect of Tirupati Cotton Seed Oil on 3.7.1998. The samples are claimed to have been taken after following the prescribed procedure. It appears

that three samples were taken. The first sample was sent to Public Analyst. The second sample was sent to Central Food Laboratory, wherein a report is received that the sample was received in a broken condition. The third sample was sought to be sent through Court to Chemical Analyser. A report in this regard is also received that the sample was received in broken condition and, therefore, the report cannot be expected. The first report, therefore, remains unchallengeable. This results in denial of right of the accused under Section 13(2) of the Food Adulteration Act. The Trial Court, considering these aspects, passed the impugned order, which has aggrieved the State and, hence, this revision.

4. Heard learned Additional Public Prosecutor Mr. Desai for the petitioner and learned Advocate Mr. Modi for the respondents. There is no dispute about the fact that the two samples sent to the Central Food Laboratory as well as Chemical Analyser, on a second attempt, have been received in a broken condition by the concerned laboratory and, therefore, no analysis was possible to be performed. In absence of this, considering the provision of Section 13(2) of the Prevention of Food Adulteration Act, right of the accused of getting the sample analysed will not be available to them and, naturally, their right to challenge the first report of the Public Analyst would be affected. The Court below has, thus, considering this aspect, without waiting for the report, given benefit to the accused. This Court finds no reason to interfere with the order. There was no point in continuing the trial. No fruitful result could have been gained by the prosecution. This Court, therefore, is not inclined to exercise its revisional jurisdiction in facts of the case. The revision, therefore, must fail and the same is dismissed. Rule is discharged.

[A.L. DAVE, J.]
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